

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1079 (Montgomery County Delegation)
Ways and Means

Montgomery County Student Loan Refinancing Authority
MC 27-16

This bill authorizes Montgomery County to create the Montgomery County Student Loan Refinancing Authority (the Authority), subject to specified conditions, for the purpose of financing postsecondary education for Montgomery County residents. All obligations issued by the Authority are payable solely from the revenues or assets of the Authority and may not constitute a debt, a liability, or an obligation of the State or of any political subdivision of the State, other than the Authority.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: Assuming the State does not appropriate any funds for start-up costs or other support for the Authority, the bill does not affect State expenditures or capital debt. The creation of the Authority is not anticipated to materially affect State revenues.

Local Effect: Montgomery County expenditures increase to the extent that the county chooses to create the Authority and provide funding for start-up costs. Montgomery County revenues potentially increase in future years from the repayment of start-up costs by the Authority.

Small Business Effect: None.

Analysis

Bill Summary:

Montgomery County Student Loan Refinancing Authority

Montgomery County is authorized to create, by ordinance, the Montgomery County Student Loan Refinancing Authority, a body corporate and politic, subject to specified conditions. The purpose of the Authority is to finance postsecondary education for Montgomery County residents through:

- the making, purchasing, taking, acquiring, or lending against the security of “eligible loans” and “education loans”; and
- the selling of eligible loans and education loans made, taken, endorsed, acquired, or purchased by the Authority to governmental or private financial institutions.

Defined Terms

“Eligible loan” means a loan to a student or to the parent of a student insured or guaranteed by the U.S. Secretary of Education or by any other governmental or private agency, corporation, or organization having a reinsurance or guaranty agreement with the Secretary applicable to the loan.

“Education loan” means a loan to a student or the parent, legal guardian, or sponsor of the student, or to an eligible institution, for the purpose of financing a student’s attendance at an eligible institution.

“Eligible institution” means an institution of postsecondary education that (1) generally limits enrollment to graduates of secondary schools and (2) awards degrees at either the associate, baccalaureate, or graduate level. It includes in-state and out-of-state public, private nonprofit, and for-profit institutions of higher education.

“Student” means an individual who meets the residency, enrollment, and satisfactory progress criteria and any other criteria established by the Authority for an individual to be eligible for financial assistance from the Authority, including dependent and independent undergraduate, graduate, and professional students.

Authority Structure

The Authority consists of five members appointed by the Montgomery County Executive, subject to the confirmation of the Montgomery County Council. Each member must be a

HB 1079/ Page 2

resident of Montgomery County and qualified by training or experience in education, finance, or personal investment consulting. Appointments are generally for five years, on a staggered basis.

A member of the Authority cannot receive compensation as a member of the Authority but is entitled to reimbursement for actual expenses necessarily incurred in the performance of duties.

The Authority may appoint an executive director and counsel, and any other officers, none of whom may be members of the Authority. The executive director serves at the pleasure of the Authority and receives compensation as fixed by the Authority.

Powers of the Authority

If the Authority is established as authorized under the bill, it constitutes a public instrumentality of Montgomery County, and the exercise by the Authority of the powers described in the bill is the performance of an essential public function. In general, the Authority has all the powers necessary or convenient to carry out the purposes and provisions of bill. Specifically, the Authority may:

- purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property;
- sell, convey, mortgage, pledge, lease, exchange, transfer, and dispose of all or any part of its property and assets for any consideration and on any terms and conditions the Authority determines;
- borrow money at any rate of interest, lend money for its purposes, and invest and reinvest Authority funds; and
- adopt regulations necessary to carry out the purposes of the bill.

Among other specified powers, the Authority may also:

- issue bonds for the purpose of making eligible loans and education loans, subject to specified conditions;
- lend money to students and parents of students for the purpose of assisting the students in obtaining an education at an eligible institution, including (1) refinancing or consolidating obligations previously incurred by a student or a parent with other

lending sources and (2) participating in loans to students or parents with other lending sources;

- in any amount, at any price, and on any terms and conditions as the Authority may determine, (1) make, acquire, take, or purchase eligible loans and education loans with the proceeds of bonds or notes or any other funds of the Authority; (2) sell eligible loans held by the Authority to governmental or private financial institutions; and (3) borrow from governmental or private financial institutions against the security of eligible loans held by the Authority;
- employ individuals directly or hire consultants;
- establish eligibility criteria, including residency requirements and criteria for enrollment and satisfactory progress at a postsecondary institution; and
- set and collect fees and charges in connection with the Authority's eligible loans, commitments, and servicing.

Obligations Issued by the Authority Are Not State or Local Obligations

As noted above, the Authority may issue bonds for the purpose of making eligible loans and education loans; however, all obligations (bonds, notes, etc.) issued under the bill are payable solely from the revenues or assets of the Authority. The obligations (1) may not constitute a debt, a liability, or an obligation of the State or of any political subdivision of the State, other than the Authority and (2) are not a pledge of the faith and credit of the State or any political subdivision other than the Authority.

Each obligation issued under the bill must contain on its face a statement that (1) the Authority may not be obligated to pay the obligation or its interest except from revenues or assets pledged for the obligation and (2) neither the faith and credit nor the taxing power of the State or any political subdivision of the State other than the Authority is pledged to the payment of the principal of or the interest on the obligation. The bill also specifies similar requirements explicitly for bonds.

Terms and Conditions for Obligations Issued by the Authority

In general, the Authority is authorized to issue negotiable bonds and notes in one or more series in any principal amounts as the Authority determines necessary to provide sufficient funds for achieving its purposes. Obligations issued by the Authority, and the associated proceeds, are subject to the terms and conditions as specified in the bill, including:

- bonds, notes, and any renewals of notes may be payable in any installments as determined by the Authority – up to 30 years from the date of issue for bonds and up to 10 years from the date of issue for notes and renewals of notes;
- all bonds and notes issued by the Authority may be (1) secured by the full faith and credit of the Authority or (2) payable solely out of revenues and receipts derived from specified forms of security available to the Authority; and
- bonds or notes may be issued without obtaining the consent of the State or any instrumentality of the State.

Authority Is Generally Tax-exempt

In general, the Authority, its property, money, bonds, or notes issued under the provisions of the bill, and the income, including gain from sale or exchange, are free from taxation of every kind by the State and local government. However, the property and income of the Authority are subject to estate, inheritance, and gift taxes.

State Pledge to Not Limit or Alter Authority's Right to Fulfill Terms and Conditions

The State pledges to and agrees with the holders of any bonds or notes issued under the bill that the State will not limit or alter the rights vested in the Authority to fulfill the terms of any agreements made with the holders until the bonds or notes and interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bond or note holders are fully met and discharged. The Authority is authorized to include this pledge and agreement of the State in any agreement with the holders of the bonds or notes.

Authority May Accept Appropriations from the General Assembly

The Authority is authorized to accept any money that is appropriated by the General Assembly to carry out the Authority's corporate purposes including (1) the payment of the initial expenses of administration and operation and (2) the establishment of reserves or contingency funds to be available for the payment of the principal of and the interest on any bonds, notes, or other obligations of the Authority.

Annual Audit and Reporting Requirement

The Authority must keep full and accurate accounts of its activities and operations and, by December 31 each year, must report to the Montgomery County Executive, the Montgomery County Council, and the General Assembly. The report must include a complete operating and financial statement for the preceding fiscal year. The Authority

must also pay, from its own funds, for an audit of its books and accounts at least once each year by independent certified public accountants, subject to specified conditions.

Current Law/Background:

Student Loan Authorities

No statewide entity or program for refinancing student loans currently exists in Maryland. The Maryland Higher Education Loan Corporation, a nonprofit corporation that provided loans to students for higher education expenses, was dissolved in 1996. Chapter 180 of 2005 subsequently repealed the corporation.

Chapter 704 of 1986 authorized Prince George's County to establish the Supplemental Higher Education Loan Authority, subject to specified conditions, which the county subsequently did. The bill incorporates similar provisions for the Montgomery County Student Loan Refinancing Authority. Prince George's County did not respond to a request for additional information in time for this fiscal and policy note; however, little to no evidence of the Prince George's Supplemental Higher Education Loan Authority exists on the Internet.

Several states have student loan refinancing programs, including Connecticut, Rhode Island, and, most recently, Minnesota. For example, the Connecticut Higher Education Supplemental Loan Authority offers fixed-rate loans from \$2,000 up to the total cost of education per academic year (less any other financial aid received), to a cumulative maximum of \$125,000. Eligibility is limited to students enrolled in an accredited nonprofit college or institution in Connecticut or a Connecticut resident attending an accredited nonprofit college or institution in the United States. Similar loan offerings and residency requirements are in place for the Rhode Island Student Loan Authority.

As reported by *Forbes*, in January 2016, the state of Minnesota launched a student loan refinance program. The [SELF Refi Program](#), which is only available to qualified residents of Minnesota, offers interest rates as low as 3%, variable for refinanced student loans.

To qualify for the Minnesota program, an individual must:

- be a resident of Minnesota;
- have earned a certificate, diploma, associate's, bachelor's, or graduate degree;
- have a minimum FICO of 720 to qualify without a co-signer (or as low as 650 with a co-signer, who also must meet minimum credit requirements);
- have a debt-to-income ratio of 45% or lower;
- have no delinquencies on the individual's credit report;

- have no unpaid charge-offs, liens, or judgments of \$300 or more; and
- have a co-signer, if the borrower is not a U.S. citizen or permanent resident.

Loans refinanced through the SELF Refi Program no longer qualify for federal income-based payment programs. Thus, those who refinance risk being unable to make payments if they lose their jobs.

Individuals can also refinance student loan debt through the private market. The leading private marketplace lender recently abandoned the use of FICO completely. However, like the Minnesota SELF Refi Program, individuals who refinance their student loans through private lenders no longer qualify for federal income-based payment programs.

Nationally – Student Loans and Associated Debt

Many students finance higher education through loans from the federal government or private financial institutions, such as banks or credit unions. Federal loans made directly to the student have, compared to privately sourced loans, generous repayment terms. By default, new federal loans enter a 10-year loan repayment plan. If a student can demonstrate a partial financial hardship, using criteria set by the U.S. Department of Education (ED), the student is eligible to enroll in more generous loan repayment plans, with payments based on income and family size.

Federal loans constitute the majority of student loan debt. The Federal Reserve Bank of New York in the second quarter of 2015 reported the federal government had issued about \$1.2 trillion in total outstanding student loans. It is important to note that total outstanding student loans includes all active student loans, including currently enrolled students who have deferred payment because they are in school at least half-time (six credits). On the other hand, this figure only accounts for the original loan amount and does not include any capitalized interest, which is not currently tracked by ED or any other agency.

Maryland – Student Loan Debt Continues to Grow

The most recent Maryland data reported for undergraduates at public and private, nonprofit four-year institutions by the Project on Student Debt (PSD), covering 2014 graduates, reports that 58% had student debt with an average debt (of those with loans) of \$27,457. This is slightly below the national average of 61% of students with student debt and slightly above the national average of \$27,022 for debt. Maryland ranks thirty-fourth in the country for the percent graduating with debt and twentieth for the per capita amount of debt. PSD's 2014 report enabled a look back at changes over the debt data. While PSD noted the steady participation of Maryland institutions in the survey, it summarized Maryland this way:

The 10-year change for Maryland is not only large in scale but also highly robust. The average reported debt of Maryland's new graduates more than doubled in 10 years, rising a striking 118 percent from the Class of 2004 to the Class of 2014. That is more than twice the national growth rate for the same period, and more than four times the rate of inflation.

Montgomery County

The Department of Legislative Services is unaware of student loan debt information specifically on Montgomery County residents; however, the following information illustrates the potential magnitude of the debt.

The 2014-2015 twelfth grade enrollment at Montgomery County Public Schools (MCPS) was 10,046. From 2001 through 2009, of 83,756 MCPS graduates, 40,576 (48%) enrolled in a four-year institution and 21,356 (26%) enrolled in a two-year institution within the first year after high school. Further, for 2001-2004 fall, full-time college enrollees, 50.4% earned a bachelor's degree within six years after high school graduation. Finally, as noted above, in Maryland, 58% of undergraduate students graduating from four-year institutions have debt, with an average debt of \$27,457 per student.

Assuming 48% of 10,000 MCPS graduates enroll in a four-year institution, 50.4% of those who enroll eventually graduate with a bachelor's degree, 58% of those who graduate have debt, and that debt averages \$27,457 per student, then the average new student loan debt for Montgomery County high school students who graduate from four-year institutions is \$38.5 million annually. This does not include graduates of two-year institutions or graduate schools, or those who attend college but do not earn a degree.

Local Fiscal Effect: Montgomery County expenditures increase to the extent that the county chooses to create the Authority and provide funding for start-up costs. It is unclear whether and to what extent the county would choose to do so. Montgomery County revenues potentially increase in future years from the repayment of start-up costs by the Authority. Absent expenditures and revenues related to start-up funding, Montgomery County finances are likely not materially affected.

In a January 28, 2016 letter from the Montgomery County Department of Finance to the County Executive, the department advised that a large infusion of cash is required to establish the Authority – possibly in the range of \$50 million to \$100 million – and cited the State, county general fund appropriations, and the proceeds of county debt financing as possible sources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Connecticut Higher Education Supplemental Loan Authority, Rhode Island Student Loan Authority, U.S. Federal Reserve, Project on Student Debt, *Forbes*, Department of Legislative Services

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